

**THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**In re:.**

**Thomas D. Roller**

**Debtor**

**Case No. 12-61145 (RK)**

**Chapter 7**

**JUDGE RUSS KENDIG**

**Daniel M. McDermott,  
United States Trustee, Region 9**

**Plaintiff**

**v.**

**Thomas D. Roller**

**Defendant**

**Adv. Pro. No. 13-06050**

**Attorney Charles T. Robinson Final Argument**

Now comes Thomas Roller, by and through his attorney Charles T. Robinson, and for his final argument states:

**Facts**

The Debtor, Thomas Roller, had been employed for 24 years as a banker at First Federal Bank in Galion, Ohio.

The Debtor, Thomas Roller, met who he thought was the love of his life, Holly Williamson. They met at a night spot in Bucyrus where she worked as a waitress. They soon became romantically involved.

Holly told the Debtor, Thomas Roller that she was divorced with two children. As their relationship developed Holly claimed that she was tired of waitressing. She stated that she loved

to cook and would be a great chef. Together Holly and Tom decided to open a restaurant. Thomas Roller and Holly Williamson joined in a partnership. The Debtor, Thomas Roller had no personal experience with running a restaurant. There were no signed documents of a partnership organization since the two were more than just business partners. The Debtor, Thomas Roller was the main financial backer for this restaurant and was to provide almost all startup funds, investments and costs. In addition to providing the majority of funds for the restaurant, the Debtor also provided a substantial financial presence in Holly's personal life. UST Exhibit 18 (18-25), line 25 the Debtor states "And I just got into so much debt with her." The Debtor was in love and foolishly catered to her without any regard for the consequence of his personal finances. The Debtor stated that he had invested approximately \$35,000 in the restaurant. The restaurant was to be located at the Tebo Building at 1221 Ohio 61 and was to be named Someplace New. The Debtor, Thomas Roller, received their EIN number for the new business on May 24, 2011.

The testimony of the Debtor which was confirmed by Attorney Lowman, Bankruptcy Analyst, said that the Debtor paid approximately \$55,000 on his credit card bills between January 6, 2011 and November 18, 2011.

The restaurant, that not yet even opened was robbed on November 3, 2011. The Trustee Attorney DeGirolamo testified that his only recollection with regards to the robbery was that the records of their business were stolen but the Debtor testified convincingly that he had numerous valuable assets that were stolen. The police report he had given the Trustee establishes that indeed numerous valuable assets had been stolen. The restaurant did eventually open without the Debtor's knowledge; see Defendant's Exhibit 6 pages 1 and 2.

The Debtor, while working at First Federal removed \$500 from a deposit at the bank. He testified he had not removed the funds from the bank but failed to correctly account for the funds within the bank. It came to no surprise that the Debtor, Thomas Roller, was discharged from First Federal bank. The Debtor was also charged with theft and eventually plead guilty to a lesser charge.

Thomas Roller's life was destroyed. He was quickly beginning to realize how careless he had been. The Debtor had lost his job, been charged with a crime, had endured a robbery of a restaurant that had never even opened. He also came to find out that who he thought was the love of his life was actually married to a man who she told him was her brother. Eventually Thomas learned that Holly had opened the restaurant in the Tebo Building at 1221 Ohio 61 named "Someplace New" with her husband. They claim to have been robbed of \$27,000.00. No other robbery was reported than the Debtor's. The Debtor, Thomas Roller had been duped; see Defendant's Exhibit 6 pages 1 and 2.

The Debtor, Thomas Roller, had removed \$89,000 from a 401(k) and from bank stock that has been sold. He had borrowed several other loans totaling approximately \$122,000. Thomas Roller has nothing to show for it. He was depressed, ashamed of himself and could not face his family and friends.

The Debtor, Thomas Roller, filed bankruptcy on April 20, 2012. He also provided his 2011 tax return, a standard requirement in bankruptcy filings. Attorney DeGirolamo was selected as the Trustee. The Trustee was provided with the Debtor's 2011 tax return without making any formal request.

As a dutiful Trustee will always do, he carefully examined the Debtor's petition and 2011 tax return. The Trustee discovered some substantial errors. The Trustee DeGirolamo requested

the Debtor submit numerous items to the Trustee including loan information, First Federal monthly bank statements, Edward Jones statements, etc. Any and all documents that were requested by the Trustee that the Debtor had in his possession were provided! The Debtor had great difficulty in obtaining information from First Federal loans and his credit card statements. It is common knowledge in the bankruptcy field that once a petition is filed most often credit card companies are reluctant to assist the Debtor in any manner. After numerous phone calls were made by the Debtor to no avail, subpoenas were issued. This took months to receive. Every credit card statement that was requested by the Trustee DeGirolamo was ultimately provided.

The Trustee DeGirolamo testified he had never seen the credit card statements before the matter was referred to the U.S. Trustee. This is correct. The credit card statements were provided later.

The Trustee DeGirolamo testified that at no time did he request an amendment to be filed for the Debtor.

After discovery was complete the Debtor, Thomas Roller, had accounted for nearly all expenditures in his checking account and credit card statements. The only thing the Bankruptcy Analyst could articulate is that she was concerned about the expenditure of cash including the month of October 2011. The cash withdraws were shown on UST 6 (6-25) and UST 6(6-26) Exhibits. This totals \$15,354 of cash withdraws. The largest withdraw was in the amount of \$6,500 on October 5, 2011. The Debtor, Thomas Roller provided the Court with proof that this expense was accounted for in UST 15(15-159) with a purchase for a tap system and paid \$6,325, Exhibit is attached UST 15(15-159). The Debtor has provided over \$14,000 in cash receipts. The Debtor, Thomas Roller has done an exceptional job in obtaining this amount of receipts

from over two years ago. It should come as no surprise that he could not obtain every cash receipt. The Debtor has provided when, where and how much most all of his expenditures. There is no evidence that displays a pattern of deceit! There are no assets remaining for the creditors and he has proven how the money was spent. The Debtor was employed at First Federal and often paid his expenditures with bank checks. First Federal provided the Court with evidence of some of those expenditures; Defendant's Exhibit 1 Page 66 is attached. This document that was provided by First Federal shows accounts for \$14,394.22 in bank checks.

The U.S. Trustee filed a Complaint to Deny Discharge.

### **Count I**

In Count I it states that the Defendant/Debtor, Thomas Roller, failed to report that he had retirement assets. This is true but was an honest error and in no way injured any creditor since this asset is exempt. No harm, no foul just an honest mistake.

### **Count II**

In Count II the Government states that the Debtor marked "None" in item 2 on Form 7. The Debtor now understands that this is incorrect. At the time of filing he felt that the monies withdrawn from his various accounts were monies that already belonged to him. He testified that it was like spending money out of a savings account. No harm to any creditor.

### **Count III**

In Count III the U.S. Trustee provided proof which was admitted by the Debtor that certain bank accounts were closed. The Debtor, Thomas Roller, admitted he had made a mistake. He felt since he had not personally closed any accounts but rather the bank had closed his accounts after they fired him at the time he filled out his bankruptcy petition he honestly believed it was correct. No creditor was injured.

#### **Count IV**

In Count IV the Government accuses the Debtor, Thomas Roller, of misrepresenting that he had completed financial statements when he had in fact applied for a loan. The Debtor testified that the documents the Government used as "Financial Statements" was an Asset and Debt Information sheet. This was an application for an unsecured personal loan. The Debtor did not even list his automobile as an asset. He did list the debt on the vehicle. He listed all his income and expenses. He testified as a banker, he believed this was a document to determine whether or not he could repay this loan. Nowhere on this document is it referred to as a Financial Statement. At the time of his bankruptcy filing and currently the Debtor believes this was not a financial statement. No creditor was injured by this.

#### **Count V**

In Count V of the Complaint the Complaint states that he failed to report income on Schedule B and the Statement of Financial Affairs. Once a petition is filed Trustee DeGirolamo was sent a copy of the debtor's most recently filed tax return, a copy of the Debtor's 2011 taxes were provided. The Debtor provided the Trustee with a copy of his tax return without any additional request from the Trustee. The Debtor felt at that time this was not earned income since this was money that belonged to him. He felt as if this was like spending money out of a bank account. These funds were already exempt. No creditor was harmed.

#### **Count VI**

In Count VI the Government again has the same complaint. The Debtor incorrectly assumed his 401(k) and Edward Jones accounts were monies that belonged to him. Again the Debtor admits he made a mistake.

### **Count VII**

In Count VII the Government states that the Debtor, Thomas Roller, failed to keep records and documents. The Debtor has supplied over 400 pages of exhibits! Almost all of the material used in this case was provided by the Debtor. The Debtor never tried to conceal any information with regards to this case. Any information the Debtor had in his possession was given freely to the Trustee. All additional information that was requested by the Trustee required a subpoena to be issued to obtain it and could not be obtained by the Debtor himself. No Debtor under the circumstances herein could do better. He provided excellent records of all transactions. He could have done no better.

### **Count VIII**

In Count VIII the Trustee claims they have not received the Citicard, Discover, and Home Depot credit card statements for 2011. At the time the Complaint was filed these records had not yet been obtained. The Debtor incurred substantial time and expense by means to provide these documents as required.

### **Count IX**

In Count IX the U.S. Trustee states that the Debtor has failed to explain his loss of assets. This is no longer true. This could not be explained in its entirety until his credit card statements had been received. The Debtor, Thomas Roller, has shown how his money was spent.

The Debtor never intended to cause any creditor harm. The Debtor has never tried to conceal any part of his prior earnings. He had no intent to hinder, delay or defraud any creditor or the U.S. Trustee. The Trustee has a Burden of Proof that the Debtor had subjective intent. The Debtor had no such intent.

1. Denying discharge under 727(a)(2):

- Language of 727(a)(2): “ The Court shall grant the debtor a discharge, unless...- (2) the debtor, with intent to hinder, delay, or defraud a creditor... has transferred, removed, destroyed, mutilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated or concealed-(A) property of the debtor, within one year before the date of filing the petition”
  - Trustee has to prove debtor had the subjective intent to hinder, delay, or defraud through the concealment
- Intent to Defraud case law:
  - In re Keeney, 227 F.3d at 685-86 (quoting In re Chavin, 150 F.3d 726, 728 (7<sup>th</sup> Cir. 1998): “Intent to defraud ‘involves a material representation that you know to be false, or, what amounts to the same thing, an omission that you know will create an erroneous impression.”
  - In re Keeney: “Intent to defraud may be established if the debtor acted with reckless disregard as to whether a representation was true.”
  - Gullickson v. Brown, 108 F.3d 1290, 1294 (10<sup>th</sup> Cir. 1997): “A debtor is entitled to discharge if false information is the result of mistake or inadvertence.”

The Debtor has lost everything, his career, his financial stability, his love, his character and his pride. He is greatly concerned that he will be unable to obtain gainful employment if he can never receive a fresh start under the Bankruptcy Act. He never intended to defraud a single creditor and no creditor was harmed. Although he has made mistakes both in his petition and his life to deny him a discharge would be to deny him any chance of redemption and a fresh start.

Respectfully submitted,  
Charles T. Robinson

by: */s/Charles T. Robinson*  
Charles T. Robinson #0000386  
Trial Attorney  
3 N. Main Street  
Suite 400  
Mansfield, Ohio 44902  
(419) 524-6000  
(419) 524-6000 Facsimile  
attyrobinson@earthlink.net



**Certificate of Service**

I, Charles T. Robinson, certify that on December 24, 2013, a true and correct copy of the **Attorney Charles T. Robinson's Exhibit List** was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Derrick V. Rippy, on behalf of Daniel M. McDermott, United States Trustee, Region 9,  
Plaintiff, at [Derrick.V.Rippy@usdoj.gov](mailto:Derrick.V.Rippy@usdoj.gov)

*/s/Charles T. Robinson*  
Charles T. Robinson  
3 N. Main Street  
Suite 400  
Mansfield, Ohio 44902  
(419)524-6000  
(419)524-4821 Facsimile  
[attyrobinson@earthlink.net](mailto:attyrobinson@earthlink.net)

1 need. At this point that's all we need as far as  
2 discovery purposes?

3 BY THE TRUSTEE:

4 Q That's all -- that's all I need to know. I need  
5 to understand what happened to the stock account  
6 portion of the Edward Jones account, the stocks that  
7 you sold through 2011.

8 A Okay.

9 Q Did Edward Jones take that? I mean based on what  
10 you're telling me, you owed Edward Jones almost  
11 \$60,000.

12 A Well, I had -- what I did was I -- I paid it off  
13 and then I borrowed some more.

14 Q Okay. Through the course of 2011?

15 A Yes.

16 Q Okay. And why did you have to borrow more?

17 A Because I was -- long story. My girlfriend -- my  
18 ex-girlfriend was -- was using me.

19 Q Mm-hmm.

20 A And --

21 Q And you gave the money to her?

22 A Yeah. Not to her, but to -- what I was doing was  
23 I was -- I was buying stuff on my credit cards and I  
24 really shouldn't have been, because of -- because of  
25 her. And I just got into so much debt with her.

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## Someplace New opens in Galion

5:50 AM, Jun. 22, 2013

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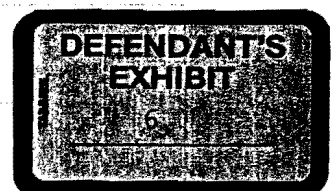
Someplace New Opens: Someplace New Bar opens on east side of Galion

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Written by  
Kimberly Gasuras  
Telegraph-Forum



FILED UNDER

News

Local News

Holly and Brian Williamson have finally opened their bar, Someplace New, and they will be adding more new things in the near future.

The Galionites began renting the former Tebo's building at 1221 Ohio 61 more than a year ago.

"It took us a long time to get it up and running," Brian Williamson said. "We had a huge setback last fall when the building was broken into and we lost \$27,000 worth of equipment." ...

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THOMAS ROLLER

2

2566

2955

	3106	FRIENDLY CHECKING		3106)	
09-26	BEGINNING BALANCE				360.99
09-26	DCD WD	AT MCDONALD'S F2230 GALION OH	16.05-		344.94
09-26	DCD WD	AT SHELBY DUCHESS BP SHELBY OH	50.00-		294.94
09-26	DCD WD	AT WHITE CASTLE ONTARIO OH	12.41-		282.53
09-26	DCD WD	AT JEN COR FOOD STORE GALION OH	50.08-		232.45
09-26	BILLMATRIX	-BILL PAY	2.95-		229.50
09-26	AEP OHIO POWER,	-BILL PAY	217.50-		12.00
09-27	CASH WITHDRAWAL	AT MAIN OFFICE	10.00-		2.00
09-29	# 1420 CHECK WITHDRAWAL		802.00-		800.00-
09-30	FIRST FED S&L-DIRECT DEP-	8353VKO-ROLLE	857.42		57.42
09-30	PROSPER MARKET-LOAN PMT-	196816-Roller, Thomas	326.62-		269.20-
09-30	ODP PAID ITEM CHRGE		29.00-		298.20-
09-30	# 1420 RETURNED-INSUFFICIENT FUNDS AT MAIN OFFIC		802.00		503.80
09-30	# 1420 INSUFFICIENT FUNDS SERVICE CHARGE AT MAIN		29.00-		474.80
09-30	TRANSFER - REMOTE BANKING		100.00		574.80
	FROM	0012			
09-30	TRANSFER - REMOTE BANKING		20.00		594.80
	FROM	1905			
09-30	TRANSFER - REMOTE BANKING		508.55-		86.25
	TO	8694			
10-01	DCD WD	AT SPEEDWAY 03187 746 GALION OH	20.01-		66.24
10-01	DCD WD	AT EASY TRIP 106 CRESTLINE OH	30.00-		36.24
10-03	DCD WD	AT WAL-MART #1539 MANSFIELD OH	31.54-		4.70
10-04	# 1420 CHECK WITHDRAWAL		802.00-		797.30-
10-04	# 1420 ODP PAID ITEM CHRGE		29.00-		826.30-
10-05	REVERSAL OF OVERDRAFT CHARGE AT MAIN OFFICE		29.00		797.30-
10-05	# 1420 RETURNED-INSUFFICIENT FUNDS AT MAIN OFFIC		802.00		4.70
10-05	# 1420 INSUFFICIENT FUNDS SERVICE CHARGE AT MAIN		29.00-		24.30-
10-05	CHECK DEPOSIT AT SHELBY		22,000.00		21,975.70
10-05	CASH WITHDRAWAL AT SHELBY		6,500.00-		15,475.70
10-05	CASH WITHDRAWAL AT SHELBY		1,860.00-		13,615.70
10-05	CASH WITHDRAWAL AT SHELBY		1,000.00-		12,615.70
10-05	CASH WITHDRAWAL AT SHELBY		550.00-		12,065.70
10-05	CASH WITHDRAWAL AT SHELBY		2,844.00-		9,221.70
10-06	DCD WD	AT AARON'S SALO C0917 BUCYRUS OH	170.45-		9,051.25
10-06	DCD WD	AT GC MANSFIELD MANSFIELD OH	98.14-		8,953.11
10-06	DCD WD	AT WAL-MART #1539 MANSFIELD OH	10.41-		8,942.70
10-06	DCD WD	AT GRACEFUL GIFTS BUCYRUS OH	38.39-		8,904.31
10-06	CASH WITHDRAWAL AT MAIN OFFICE		500.00-		8,404.31
10-06	CASH WITHDRAWAL AT MAIN OFFICE		1,250.00-		7,154.31
10-06	POS WD	AT Verizon Wrls M5933-01 Mansfield OH	418.63-		6,735.68
10-07	VZ WIRELESS VE	-VZW WEBPAY	103.22-		6,632.46
10-07	DISCOVER	-E-PAYMENT	1,000.00-		5,632.46

CONTINUED

UST EXHIBIT 6 (6-25)

THOMAS ROLLER

2566 2956

B106 FRIENDLY CHECKING			
10-07	OHIO EDISON-FE ECHECK- [REDACTED] 1229-VANCE HOLLY	1,584.38-	5,632.46
10-07	HSBC RS -Online Pmt	25.00-	4,048.08
10-07	CITI CARD ONLINE-PAYMENT	1,000.00-	4,023.08
10-07	SEARS ONLINE -PAYMENT	1,000.00-	3,023.08
10-07	HOME DEPOT -ONLINE PMT	25.00-	2,023.08
10-07	FORD CREDIT-FORDCREDIT-045885700-THOMAS D ROLL	967.45-	1,998.08
10-07	GEGRB Phone -Payment	160.00-	1,030.63
10-07	CASH WITHDRAWAL AT MAIN OFFICE	850.00-	870.63
10-11	CASH DEPOSIT AT MAIN OFFICE	100.00	20.63
10-12	CASH DEPOSIT AT MAIN OFFICE	100.00	120.63
10-14	FIRST FED S&L-DIRECT DEP- [REDACTED] 8230VKO-ROLLE	834.51	220.63
10-14	CASH WITHDRAWAL AT MAIN OFFICE	220.00-	1,055.14
10-17	DCD WD AT MCDONALD'S F10272 CRESTLINE OH	7.39-	835.14
10-17	DCD WD AT TACO BELL #1600016 BUCYRUS OH	20.08-	827.75
10-17	DCD WD AT WAL-MART #2613 BUCYRUS OH	238.62-	807.67
10-17	TIME WARNER CABL-CABLE BILL- [REDACTED] 1001-Th	76.99-	569.05
10-18	# 5215 CHECK WITHDRAWAL	68.25-	492.06
10-20	DCD WD AT WAL-MART #2613 BUCYRUS OH	2.65-	423.81
10-20	DCD WD AT CIRCLE K 05653 BUCYRUS OH	25.79-	421.16
10-20	DCD WD AT TACO BELL #1970019 GALION OH	8.67-	395.37
10-21	DCD WD AT DOLLAR GENERAL #10 GALION OH	6.42-	386.70
10-21	DCD WD AT DOLLAR GENERAL #10 GALION OH	4.28-	380.28
10-22	DCD WD AT CHARLIES MARKET GALION OH	13.41-	376.00
10-22	DCD WD AT PETSMART INC 1298 MANSFIELD OH	32.00-	362.59
10-22	DCD WD AT MCDONALD'S F10272 CRESTLINE OH	6.90-	330.59
10-24	DCD WD AT MCDONALD'S F2230 GALION OH	6.18-	323.69
10-24	DCD WD AT PETSMART INC 1298 MANSFIELD OH	26.10-	317.51
10-24	DCD WD AT PET SUPPLIES PLUS MANSFIELD OH	22.90-	291.41
10-24	DCD WD AT MCDONALD'S F10272 CRESTLINE OH	5.15-	268.51
10-24	DCD WD AT SUNOCO 0875718900 BUCYRUS OH	6.44-	263.36
10-24	ATM WD AT 131-223 STETZER RD BUCYRUS OH	42.00-	256.92
10-24	DCD WD AT HONG KONG BUFFET BUCYRUS OH	90.04-	214.92
10-24	CASH DEPOSIT AT MAIN OFFICE	240.00	124.88
10-24	# 5216 CHECK WITHDRAWAL	22.50-	364.88
10-24	DCD WD AT ATHENS GREEK REST MOUNT VERNON OH	34.50-	342.38
10-24	DCD WD AT ATHENS GREEK REST MOUNT VERNON OH	21.00-	307.88
10-25	CASH DEPOSIT AT MAIN OFFICE	70.00	286.88
10-25	INTEREST AVERAGE RATE: .047	.03	356.88
10-25	ENDING BALANCE		356.91

DATE	CHECK NO.	AMOUNT	DATE	CHECK NO.	AMOUNT
09-29	# 1420	802.00-	10-18	# 5215*	68.25-
10-04	# 1420	802.00-	10-24	# 5216	22.50-

CONTINUED

UST EXHIBIT 6 (6-26)



1221 10/5/11  
cash

3/4" - \$450 - Tap  
\$1720 System Capacity  
Impact Fee

160' x \$25.00 = \$4000.00 frontage  
per foot of frontage

Meter, Water \$155.00

5-18-11

1" TAP  
500.00

1" SYSTEM  
~~2636.00~~  
2636.00

METER

1" 223.00

0.00

450.00+ TAP  
1720.00+ - SYSTEM CAPACITY  
4000.00+ - FRONTAGE FEE  
155.00+ - METER 124.00  
6325.00\*

Pd 10-5-11  
cash

UST EXHIBIT 15 (15-159)

169

Date	Check Number	Amount	Payee
<u>01-02-000012</u>			
09/12/2011	780163	100.00	Ohio Division of Liquor Control Then Stop Payment placed 9-20-11
<u>01-02-005554</u>			
03/09/2011	776673	2581.00	Donley Ford
04/28/2011	777200	345.84	Ohio Edison
05/13/2011	778403	2000.00	Roger Oberlander
05/16/2011	778432	500.00	Roger Oberlander
<u>06-66-253106</u>			
04/01/2011	777039	115.00	Crestline Mayor's Court
04/05/2011	777056	1148.38	Sherwin Williams
06/29/2011	779255	1000.00	Roger Oberlander
09/01/2011	780107	1000.00	Roger Oberlander
10/05/2011	780673	1860.00	Whiteamire Architects, LTD
10/05/2011	780674	1000.00	Roger Oberlander
10/05/2011	780675	2844.00	Ohio Dept of Commerce Division of Liquor Control